

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1990**

---

---

**Introduced by Assembly Member Fong**

February 23, 2012

---

---

An act to ~~amend Section 451 of~~ *add Section 399.23* to the Public Utilities Code, relating to ~~public utilities~~ *electricity*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1990, as amended, Fong. ~~Public utilities: rates and charges: service.~~ *Renewable energy resources: small-scale renewable generation program.*

*Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the PUC to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible*

*renewable energy resource under the California Renewables Portfolio Standard Program. Existing decisions of the PUC implementing these requirements refer to these tariff requirements as a renewable feed-in tariff. Existing law requires a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors.*

*This bill would establish the small-scale renewable generation program with the goal of installing 375 megawatts of electrical generating capacity from small-scale renewable generation facilities, as defined, in the state's most impacted and disadvantaged communities, as defined. The bill would require the PUC, in consultation with the State Energy Resources Conservation and Development Commission, electrical corporations, the Division of Ratepayer Advocates, and interested stakeholders, to develop program elements, as specified, for the program that are applicable to electrical corporations and that achieve certain environmental justice objectives. The bill would require each electrical corporation to file with the PUC a standard tariff for electricity purchased pursuant to a clean energy contract, as defined, with a small-scale renewable generation facility owner or operator. The bill would require the PUC to establish a schedule of standard tariff rates for electricity that electrical corporations are required to purchase through clean energy contracts with a small-scale renewable generation facility owner or operator. The bill requires each local publicly owned electric utility that sells electricity at retail to establish a schedule of standard tariff rates for electricity purchased through clean energy contracts from small-scale renewable generation facilities pursuant to a small-scale generation program for the utility. The bill would require the PUC to allocate procurement targets for each electrical corporation and local publicly owned electric utility in proportion to each utility's percentage share of the state's total electricity sales measured in kilowatthours for the calendar year ending December 31, 2012.*

*Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.*

*Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose*

*a state-mandated local program by creating a new crime. Because the bill would impose various duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for specified reasons.*

~~Existing law requires that all public utility charges be just and reasonable and that every public utility furnish and maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public. Existing law further requires that all rules made by a public utility affecting or pertaining to its charges or service to the public to be just and reasonable.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. *It is the intent of the Legislature to support*  
2 *small-scale local clean energy in communities throughout the state*  
3 *in order to increase green jobs and businesses that benefit the*  
4 *communities where electrical utility customers live, especially in*  
5 *the most impacted and disadvantaged communities with high*  
6 *unemployment that bear a disproportionate burden from air*  
7 *pollution, disease, and other impacts from the generation of*  
8 *electricity from the burning of fossil fuels.*

9     SEC. 2 *Section 399.23 is added to the Public Utilities Code,*  
10 *to read:*

11     399.23. (a) *It is the goal of this state and the intent of the*  
12 *Legislature to install, by December 31, 2020, 375 megawatts of*  
13 *electrical generation capacity from small-scale renewable*  
14 *generation facilities in the state’s most impacted and disadvantaged*  
15 *communities with high unemployment, supported by a program*  
16 *that provides carefully calibrated payments for the electricity*

1 *generated and that are designed to benefit the state’s most*  
2 *impacted and disadvantaged communities.*

3 *(b) For purposes of this section, the following terms have the*  
4 *following meanings:*

5 *(1) “Clean energy contract” means a standard offer long-term*  
6 *contract through which an electrical corporation or local publicly*  
7 *owned electric utility is required to purchase electricity generated*  
8 *by a small-scale renewable generation facility according to a*  
9 *preestablished price schedule when the requirements of this section*  
10 *are met.*

11 *(2) “Most impacted and disadvantaged communities” means*  
12 *those areas within a region having the highest 10 percent air*  
13 *pollution and socioeconomic vulnerability, or those areas within*  
14 *a region having the highest 10 percent vulnerability to direct health*  
15 *or environmental impacts of climate change. The evaluation*  
16 *criteria for air pollution exposure shall include, at a minimum,*  
17 *criteria and toxic air pollution levels, proximity to sources of air*  
18 *pollution, and the presence of sensitive populations. The evaluation*  
19 *criteria for socioeconomic vulnerability, to the extent feasible,*  
20 *shall include multiple indicators, including poverty level, percent*  
21 *home ownership, unemployment level, and educational attainment*  
22 *within an air basin that does not meet one or more national or*  
23 *state ambient air quality standards, or those areas having the*  
24 *highest 10 percent socioeconomic vulnerability to direct health,*  
25 *or environmental, impacts of climate change.*

26 *(3) “Small-scale renewable generation facility” means an*  
27 *electrical generation facility, located within the service territory*  
28 *of, and developed to sell electricity to, an electrical corporation*  
29 *or local publicly owned electric utility, that meets all of the*  
30 *following:*

- 31 *(A) Has a rated capacity of not more than 500 kilowatts.*
- 32 *(B) Is interconnected and operates in parallel with the electrical*  
33 *distribution grid.*
- 34 *(C) Is interconnected to the electrical distribution grid in a*  
35 *manner that optimizes the deliverability of electricity generated*  
36 *at the facility to load centers.*
- 37 *(D) Is an eligible renewable energy resource.*

38 *(c) (1) The commission, in consultation with the Energy*  
39 *Commission, electrical corporations, the Division of Ratepayer*  
40 *Advocates, and interested stakeholders shall develop program*

1 *elements for the small-scale renewable generation program*  
2 *applicable to electrical corporations, including eligibility criteria*  
3 *and payment rates for clean energy contracts to be located in, and*  
4 *methods to accomplish some or all of the following environmental*  
5 *justice benefits for, the state's most impacted and disadvantaged*  
6 *communities:*

7 (A) *Create quality local green jobs that provide prevailing*  
8 *wages, opportunity for advancement, and benefits.*

9 (B) *Promote the hiring of employees from the state's most*  
10 *impacted and disadvantaged communities and from high-quality*  
11 *local green job training programs.*

12 (C) *Promote the development of local green businesses.*

13 (D) *Promote local manufacturing in the state's most impacted*  
14 *and disadvantaged communities.*

15 (E) *Promote environmentally responsible recycling of*  
16 *manufactured renewable energy products.*

17 (F) *Promote local ownership of green businesses and small*  
18 *scale renewable generation facilities.*

19 (G) *Facilitate efforts to target construction job opportunities*  
20 *to disadvantaged residents, generate tax revenue and other income*  
21 *for the state's most impacted and disadvantaged communities, and*  
22 *provide lasting remediation for the conditions of poverty and*  
23 *unemployment by providing careers in the skilled construction*  
24 *trades.*

25 (2) *The commission shall allocate procurement targets for each*  
26 *electrical corporation and local publicly owned electric utility*  
27 *with the goal of procuring 375 megawatts of electrical generating*  
28 *capacity from small-scale renewable generation facilities statewide*  
29 *by December 31, 2020. The targets shall be allocated in proportion*  
30 *to each utility's percentage share of the state's total electricity*  
31 *sales measured in kilowatthours for the calendar year ending*  
32 *December 31, 2012.*

33 (3) *The commission shall determine the capacity of small-scale*  
34 *renewable generation facilities that can be built in the state's most*  
35 *impacted and disadvantaged communities in order to achieve the*  
36 *environmental justice benefits described in paragraph (1).*

37 (4) *The program shall be designed to support the development*  
38 *of a variety of generating technologies and project sizes so as to*  
39 *achieve a diverse portfolio of eligible renewable energy resources*

1 *that provides benefits to the distribution grid and achieves the*  
 2 *environmental justice benefits described in paragraph (1).*

3 *(5) The commission shall establish a schedule of standard tariff*  
 4 *rates for electricity that electrical corporations are required to*  
 5 *purchase through clean energy contracts with a small-scale*  
 6 *renewable generation facility owner or operator. The tariff*  
 7 *payment rates shall be sufficient to stimulate the market for each*  
 8 *type of electrical generation sufficiently to meet the program*  
 9 *targets. Separate tariff payment rates shall be created for each*  
 10 *type of electrical generation service provided, including peaking,*  
 11 *base load, and, as available, specific for the size range and the*  
 12 *specified benefits of projects included in the program, while*  
 13 *maintaining ratepayer indifference for the program as a whole.*  
 14 *The commission shall establish adders to the tariff payment rates,*  
 15 *not to exceed two cents (\$0.02) per kilowatthour, which support*  
 16 *and cover the cost of providing the environmental justice benefits*  
 17 *described in paragraph (1). Tariff rates may be adjusted to account*  
 18 *for the availability of tax credits or other subsidies to owners of*  
 19 *small-scale renewable electric generation facilities, to the extent*  
 20 *necessary to ensure achievement of the benefits of this program.*

21 *(6) The commission shall establish an annual cost limitation*  
 22 *for the small-scale renewable generation program, which shall*  
 23 *not exceed 0.375 percent of the total cost of each electrical*  
 24 *corporation's forecast retail sales in the calendar year ending*  
 25 *December 31, 2020. The commission shall endeavor to design the*  
 26 *program so that the program goals can reasonably be expected*  
 27 *to be met within the cost containment limitation.*

28 *(7) Clean energy contracts shall be for a period of 20 or more*  
 29 *years, as authorized by the commission. It is the intent of the*  
 30 *Legislature that long-term contracts be used to lower the average*  
 31 *cost per kilowatthour for small-scale renewable electric generation*  
 32 *facilities.*

33 *(8) The commission may modify or adjust the requirements of*  
 34 *this section for any electrical corporation with less than 100,000*  
 35 *service connections, as individual circumstances merit.*

36 *(9) Every electrical corporation shall file with the commission*  
 37 *a standard tariff for electricity purchased pursuant to a clean*  
 38 *energy contract with a small-scale renewable generation facility*  
 39 *owner or operator. The tariff shall provide for payment for every*

1 kilowatthour of electricity purchased from a small-scale renewable  
2 generation facility pursuant to the clean energy contract.

3 (10) The commission shall open a proceeding or expand the  
4 scope of an existing proceeding in order to accomplish the  
5 requirements of this subdivision no later than January 31, 2013,  
6 and shall ensure that electrical corporations begin offering clean  
7 energy contracts pursuant to the program by January 1, 2014.

8 (d) (1) Each local publicly owned electric utility that sells  
9 electricity at retail shall establish a schedule of standard tariff  
10 rates for electricity purchased through clean energy contracts  
11 from small-scale renewable generation facilities pursuant to a  
12 small-scale generation program for the utility. The schedule of  
13 tariff rates shall provide for payment for every kilowatthour of  
14 electricity purchased from a small-scale renewable generation  
15 facility. The program shall be designed to support the development  
16 of a variety of generating technologies and project sizes so as to  
17 achieve a diverse portfolio of eligible renewable energy resources  
18 that provides benefits to the distribution grid and achieves the  
19 environmental justice benefits described in paragraph (1) of  
20 subdivision (c).

21 (2) Clean energy contracts shall be for a period of 20 or more  
22 years, as authorized by the local publicly owned utility. It is the  
23 intent of the Legislature that long-term contracts be used to lower  
24 the average cost per kilowatthour for small-scale renewable  
25 electric generation facilities.

26 (3) The tariff payment rates shall be sufficient to stimulate the  
27 market for each type of electrical generation sufficiently to meet  
28 the program targets. Separate tariff payment rates shall be created  
29 for each type of electrical generation service provided, including  
30 peaking, base load, and, as available, specific for the size range  
31 and the specified benefits of projects included in the program,  
32 while maintaining ratepayer indifference for the program as a  
33 whole. The local publicly owned electric utility shall establish  
34 adders to the tariff payment rates, not to exceed two cents (\$0.02)  
35 per kilowatthour, which support and cover the cost of providing  
36 the environmental justice benefits in paragraph (1) of subdivision  
37 (c). Tariff rates may be adjusted to account for the availability of  
38 tax credits or other subsidies to owners of small-scale renewable  
39 electric generation facilities, to the extent necessary to ensure  
40 achievement of the benefits of this program.

1     (4) *Each local publicly owned electric utility shall establish an*  
2 *expedited interconnection procedure for small-scale renewable*  
3 *generation facilities.*

4     (5) *Each local publicly owned utility shall begin to offer clean*  
5 *energy contracts pursuant to its small-scale renewable generation*  
6 *program by January 1, 2014.*

7     (e) *The program shall be implemented at a regular annual pace*  
8 *over a period of six years. Each electrical corporation and local*  
9 *publicly owned electric utility shall make the clean energy contract*  
10 *tariff available to the owner or operator of a small-scale renewable*  
11 *generation facility until the utility reaches that portion of the 375*  
12 *megawatts of electrical generation capacity allocated to it by the*  
13 *commission pursuant to paragraph (2) of subdivision (c).*

14     (f) *Within 10 days of receipt of a request for a clean energy*  
15 *contract pursuant to this section from an owner or operator of a*  
16 *small-scale renewable generation facility, the electrical*  
17 *corporation or local publicly owned electric utility receiving the*  
18 *request shall post a copy of the request on its Internet Web site.*  
19 *The information posted on the Internet Web site shall include the*  
20 *name of the city in which the facility is located, but information*  
21 *that is proprietary and confidential, including the address*  
22 *information beyond the name of the city in which the facility is*  
23 *located, shall be redacted.*

24     (g) (1) *An electrical corporation or local publicly owned*  
25 *electric utility may deny a request for a clean energy contract*  
26 *pursuant to this section if the utility determines any of the following*  
27 *to be true:*

28     (A) *The generation facility does not meet the requirements of*  
29 *this section.*

30     (B) *The distribution grid that would serve as the point of*  
31 *interconnection is inadequate.*

32     (C) *The small-scale renewable generation facility does not meet*  
33 *all applicable state and local laws and building standards, and*  
34 *utility interconnection requirements.*

35     (D) *The aggregate of all small-scale renewable generating*  
36 *facilities on a distribution circuit would adversely impact utility*  
37 *operation and load restoration efforts of the distribution system.*

38     (2) (A) *Upon receiving a notice of denial from an electrical*  
39 *corporation, the owner or operator of the electric generation*



1 facility denied a clean energy contract shall have the right to  
2 appeal that decision to the commission.

3 (B) Upon receiving a notice of denial from a local publicly  
4 owned electric utility, the owner or operator of the small-scale  
5 renewable generation facility denied a clean energy contract shall  
6 have the right to appeal that decision to the governing board of  
7 the local publicly owned electric utility.

8 (3) In order to ensure the safety and reliability of small-scale  
9 renewable generation facilities, the owner of a facility receiving  
10 a clean energy contract pursuant to this section shall provide an  
11 inspection and maintenance report to the electrical corporation  
12 or local publicly owned electric utility at least once every other  
13 year. The inspection and maintenance report shall be prepared at  
14 the expense of the owner or operator by a California-licensed  
15 contractor who is not the owner or operator of the small-scale  
16 renewable generation facility. A California-licensed electrician  
17 shall perform the inspection of the electrical portion of the facility.

18 (4) The clean energy contract between the owner or operator  
19 of a small-scale renewable generation facility and the electrical  
20 corporation or local publicly owned electric utility shall contain  
21 provisions that ensure that construction of the facility complies  
22 with all applicable state and local laws and building standards,  
23 and utility interconnection requirements.

24 (h) (1) All construction and installation of facilities of the  
25 electrical corporation or local publicly owned electric utility,  
26 including at the point of the output meter or at the transmission  
27 or distribution grid, shall only be performed by that utility.

28 (2) All interconnection facilities installed on the utility's side  
29 of the transfer point for electricity between the electrical  
30 corporation or local publicly owned electric utility and the  
31 electrical conductors of the small-scale renewable generation  
32 facility shall be owned, operated, and maintained only by the  
33 utility. The ownership, installation, operation, reading, and testing  
34 of revenue metering equipment for electric generating facilities  
35 shall only be performed by the utility.

36 (i) The commission shall require electrical corporations to  
37 ensure expedited interconnection of small-scale renewable  
38 generation facilities.

39 (j) Every kilowatthour of electricity purchased by an electrical  
40 corporation or local publicly owned electric utility from a

1 *small-scale renewable generation facility through a clean energy*  
 2 *contract shall count toward meeting that utility’s procurement*  
 3 *requirements for electricity products meeting the first priority*  
 4 *portfolio content category requirements of paragraph (1) of*  
 5 *subdivision (b) of Section 399.16.*

6 *(k) The commission shall post on its Internet Web site for*  
 7 *electrical corporations, and the Energy Commission shall post on*  
 8 *its Internet Web site for local publicly owned electric utilities,*  
 9 *updated information on the program, that includes all of the*  
 10 *following:*

11 *(1) Maps showing where small-scale renewable electric*  
 12 *generation facilities may best be located on the distribution grid.*

13 *(2) Current tariffs and available capacity in the program.*

14 *(3) Local employment and economic development opportunities*  
 15 *provided by the program.*

16 *(4) Annual reports on the program that show capacity of and*  
 17 *energy generated by each renewable energy technology installed,*  
 18 *progress on meeting program targets and environmental justice*  
 19 *goals, benefits of the program, and any recommendations for*  
 20 *modifications to the program that would help to meet the program*  
 21 *goals.*

22 *(l) The commission, Energy Commission, and local publicly*  
 23 *owned electric utilities shall evaluate ways to integrate the*  
 24 *small-scale renewable generation program with energy efficiency*  
 25 *and other demand side programs, and shall implement measures*  
 26 *that will optimize the benefits and reduce the costs of the programs.*

27 *(m) The commission, the Energy Commission, and local publicly*  
 28 *owned utilities shall evaluate contract structures, loan guarantees,*  
 29 *arrangements with financial institutions, community bulk purchase*  
 30 *agreements, and other potential program elements, and shall*  
 31 *implement measures that will reduce the cost and ensure the*  
 32 *benefits of the small-scale renewable generation program.*

33 *SEC. 3. No reimbursement is required by this act pursuant to*  
 34 *Section 6 of Article XIII B of the California Constitution because*  
 35 *a local agency or school district has the authority to levy service*  
 36 *charges, fees, or assessments sufficient to pay for the program or*  
 37 *level of service mandated by this act or because costs that may be*  
 38 *incurred by a local agency or school district will be incurred*  
 39 *because this act creates a new crime or infraction, eliminates a*  
 40 *crime or infraction, or changes the penalty for a crime or*

1 *infraction, within the meaning of Section 17556 of the Government*  
2 *Code, or changes the definition of a crime within the meaning of*  
3 *Section 6 of Article XIII B of the California Constitution.*

4 ~~SECTION 1. Section 451 of the Public Utilities Code is~~  
5 ~~amended to read:~~

6 ~~451. (a) All charges demanded or received by any public~~  
7 ~~utility, or by any two or more public utilities, for any product or~~  
8 ~~commodity furnished or to be furnished or any service rendered~~  
9 ~~or to be rendered shall be just and reasonable. Every unjust or~~  
10 ~~unreasonable charge demanded or received for that product or~~  
11 ~~commodity or service is unlawful.~~

12 ~~(b) Every public utility shall furnish and maintain adequate,~~  
13 ~~efficient, just, and reasonable service, instrumentalities, equipment,~~  
14 ~~and facilities, including telephone facilities, as defined in Section~~  
15 ~~54.1 of the Civil Code, as necessary to promote the safety, health,~~  
16 ~~comfort, and convenience of its patrons, employees, and the public.~~

17 ~~(c) All rules made by a public utility affecting or pertaining to~~  
18 ~~its charges or service to the public shall be just and reasonable.~~

O